

**FORMAL ISSUE MEMO****Date: March 15, 2011**

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**Board of Administration Election Voter Participation****Issue:**

CalPERS has historically had a low percentage of members vote in the Board of Administration elections. In 2010, the Board Election staff implemented several efforts to increase voter participation. These included marketing on social networking sites that CalPERS currently participates in such as Twitter, supporting a candidate forum sponsored and moderated by an impartial third party and producing and posting online videos of each candidate. In the State election, these efforts did not have an impact on voter participation. Staff met again with Board members to discuss additional options. This paper discusses the research completed on these options to increase voter participation.

**Discussion:****1. Implement Online Voting**

Operations Support Services Division (OSSD) staff met with Lowell Finley, Deputy Secretary of State, to discuss online voting. Due to technology inadequacies, the Secretary of State will not currently certify an online system and does not recommend using this voting process. Mr. Finley is part of the California Internet Voting Task Force which was convened in 2000 by then Secretary of State Bill Jones. This task force was developed to study the feasibility of using the internet to conduct elections in California. More than two dozen experts in the field of data security, elections and voter participation were asked to volunteer their time and expertise to continually study the development of research on new internet voting systems. The recommendations, analysis and suggested technical requirements are the collective opinion of the task force.

According to the task force, technological threats to the security, integrity and secrecy of internet ballots are significant. The possibility of virus and software attacks on home and office computers used for voting is very real and, although they are preventable, could result in a number of problems ranging from a denial of service to the submission of electronically altered ballots. The task force believes there is too much risk involved with any system available now and at this time, it would not be legally, practically or fiscally feasible to develop a comprehensive remote internet voting system that would completely replace the current paper process used for voting. These experts continually review new internet systems and do not anticipate a safe system to be approved even within the next 7-10 years.

The Secretary of State indicated that election participation rates in general have been dropping and that vote by mail actually increases the participation rate.

**RECOMMENDATION:** CalPERS elections are required to be certified by the Secretary of State. Until the Secretary of State certifies an online voting system, it is recommended not to proceed.

**2. Provide the candidates with contact information (name, address and e-mail) of CalPERS members**

In 2002, CalPERS General Counsel concluded that providing voter lists to the candidates was absolutely prohibited and referenced the PERL § 20230. *"Data filed by any member or beneficiary with the board is confidential, and no individual record shall be divulged by any official or employee having access to it to any person other than the member to whom the information relates or his or her authorized representative, the contracting agency or school district by which he or she is employed, any state department or agency, or the university. The information shall be used by the board for the sole purpose of carrying into effect the provisions of this part. Any information that is requested for retirement purposes by any public agency shall be treated as confidential by the agency."* The question was asked again of the General Counsel in February 2007 and the same response was given.

However, we have had requests from candidates to provide them with a list of public agencies and their contact information which we have done through a Public Records Act request.

**RECOMMENDATION:** It is recommended that CalPERS continue to provide interested candidates with a list of public agencies and contact information through a Public Records Act request.

**3. Move from a majority voting system to a modified plurality voting system**

The 2005 Member-At-Large election was the first CalPERS Board election that required board candidates to be elected by a majority vote instead of a plurality vote. The primary reason majority vote was approved by the Board was because it was believed a majority vote was more representative than Board members being elected by a low number of plurality votes cast. They also believed that a majority vote runoff election would increase voter interest.

At the meeting with the Deputy Secretary of State, OSSD staff discussed implementing and certifying a "modified plurality voting system". For example, this voting system would allow one candidate who receives at

least 30% of the votes instead of the majority vote (50% + 1) and at least 15% more votes than the next closest candidate to be declared the winner. This type of system would not require a runoff election between the top two candidates. Once CalPERS determines the criteria for this new voting system, the Secretary of State has indicated that they would certify a modified plurality system used for determining a winner in the CalPERS elections.

**RECOMMENDATION:** It is recommended that staff work with the existing vendor to determine changes required to the current system and also finalize plurality percentage criteria. Staff will return to the Board with these findings.

#### **4. Modify the format of the Nomination Petition form/process**

California Code of Regulations, title 2, section 554.3 regulates the nomination of candidates, and states that the petition shall clearly identify the specific Board member position for which the candidate seeks election. In order to meet these requirements, the staff suggests the following changes to the petition:

- An online copy available using Adobe Writer so the petition information can be added online without changing the format of the form.
- Clearer separation between individuals signing the nomination form (every other line a different color).

These changes to the nomination petition form would require a regulation change.

**RECOMMENDATION:** It is recommended that these changes be implemented for the 2013 election.

#### **5. Modify the ballot and booklet envelope such as changing the color of the return envelope to be a different color to attract attention**

Staff met with the elections vendor to discuss changing the color of the return envelope and adding verbiage to the outside of the envelope containing the ballot. These changes can be implemented for the 2013 election. Verbiage on the outside of the envelope can be changed at no extra charge. There is an extra charge for changing the envelope from white to a color. The charge would be under \$1,000.

**RECOMMENDATION:** It is recommended that these changes be implemented for the 2013 election.

**6. Request that ballot and petition signers provide their date of birth to be used as an identifier instead of the social security number**

This issue was addressed by CalPERS Legal Office in 1999 and in 2006. Federal law contains language which raises questions regarding the appropriateness of requiring members to disclose Social Security Numbers (SSN) as a condition of signing. CalPERS Legal office reviewed the issue of members providing partial social security numbers (SSN) or date of birth (DOB).

In the 1999 Retired election, the option of the DOB was used in place of the 9 digit SSN. Staff found that the DOB can only be reliable if the member's name is provided exactly as it appears in the CalPERS database. In 1999, staff pulled records for one of those petitions and only approximately 75% of the names submitted on the nomination petition could be validated. But in the 2009 Member-At-Large election the last four digits of the social security number were used in place of the full nine digits and DOB. When staff pulled records for one of those petitions, 85% of the names submitted by the candidates were verified, making the last four digits more reliable in verifying the signatures.

**RECOMMENDATION:** Research has demonstrated that using a member's last four digits of the social security number is more accurate in verifying signatures. It is recommended that CalPERS continue with requesting the last four digits of the social security number on the nomination petition.

**7. Send ballots to employers versus member's home address**

In the 1992/93 Member-At-Large Election the election process was accused of being flawed by a candidate because some agencies did not distribute ballots to their employees. A lawsuit was filed by the candidate concerning this matter. Instead of the judge ordering a new election and unseating the newly elected Board member, he ruled that CalPERS would be required to change its procedures and allow ballots to be mailed to active members' homes and no longer mailed to employers for distribution. At the time of the lawsuit, CalPERS was already in the process of developing a direct mail ballot system.

There is no legitimate reason for allowing the ballots to go to the employers versus a member's home address. CalPERS provides a postage paid return envelope with the ballot so there is no advantage in mailing ballots to the employer location.

The Office of Audit Services (OFAS) indicated there is no evidence to support that the ballot distribution system is in need of significant improvement. OFAS reviewed mailing reports and postage statements provided by the contractor responsible for mailing the ballot packages.

The reports indicate the number of pieces mailed by the contractor agreed with the mailing information provided by CalPERS.

It has been discovered that some members either inadvertently throw the ballot package away when it comes to them in the mail (this is validated when they call asking for a replacement package) or as discovered in the 2010 Board Election survey, members forget to vote, are too busy to vote or are not interested in voting in the CalPERS election.

**RECOMMENDATION:** Based on the judge's ruling, CalPERS is required to mail ballots to the member's home address.

**8. Reduce the election schedule**

In December 2007, the Board voted to reduce the first election voting period for the 2009 Member-At-Large Election from six weeks to four weeks, the same for the runoff election period. The OSSD staff cannot condense the schedule any further because of regulatory and vendor schedule requirements.

**RECOMMENDATION:** Staff reviewed the election schedule and recommends that the schedule remain as is due to regulatory and vendor lead time requirements.

**9. Provide members with more candidate information**

Results from a 2010 Board Election Survey show that the main reason more members do not vote in the Board elections is that they need more definitive information on candidates in order to make informed voting decisions. Members would like to be informed on candidates' financial disclosures, financial skills, investment experience, political affiliation and voting records and position statements on relevant issues.

**RECOMMENDATION:** It is recommended that the OSSD Board Election Unit provide information to candidates encouraging them to disclose more detailed information as requested by the survey respondents. This information can be included in the candidate statement and posted on CalPERS website.

**Strategic/Annual Plan Impact**

None

**Fiscal Impact**

Dependent upon actions taken

### **Legal Impact**

Board election regulations, FPPC Political Reform Act rules, the State election code, and multiple government codes govern the Board of Administration election and campaign activities.

Any potential candidate related activity such as: printed materials, access to CalPERS information and voting process changes, will have to be evaluated by the Legal Office before implementation. Eligible member voter equal accessibility issues must be considered prior to implementation of any of these options.

A change to the candidate petition and voting system would require regulation modifications through the rulemaking process.

### **Legislative Impact**

Not applicable

### **Stakeholder Impact**

Candidates:

- Greater exposure to eligible voting members to get their message and ideas disseminated.

Eligible Voting Members:

- Potentially increased interest in the elections leading to higher voter return.
- The cost to the PERF must be minimal or members will perceive the promotional activities as an unnecessary and improper use of retirement funds.

### **Critical Time Frames**

None

### **Alternatives**

Not applicable